



March 8, 2004

Rosa L. Johnson, Business Affairs Administrator
University of Arkansas at Pine Bluff
Office of Finance and Administration
1200 N. University Drive, Mail Slot #4922
Pine Bluff, AR 71601

Re: Advisory Opinion # 483-04-03

Dear Ms. Johnson:

This letter is in response to your request for an advisory opinion in accordance with §19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

- a) You are a full-time employee whose title is Business Affairs Administrator in the Office of Finance at UAPB.
- b) You are also a member of the Food Service Committee, which contracts with Thompson's Hospitality to provide food service to UAPB students.
- c) Your son, Frederick V. Johnson currently works full time for Thompson's Hospitality.
- d) You are requesting an advisory opinion as to whether a conflict exists.

Arkansas Code Annotated §19-11-705 **Employee Conflict of Interest** prohibits employees from "participating directly or indirectly"... "in any particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefor, in which to the employee's knowledge: The employee or any member of the employee's immediate family has a financial interest". In the statute "direct or indirect participation shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity".

In your letter you listed the "duties of Food Service Committee:"

- 1) Recommends to the contractor (Thompson's) and the University any irregularities as well as any laudable activity.
- 2) Monitor progress for improvement.
- 3) Monitor student, faculty, staff concerns.
- 4) Keep written documentation as to both complaints, resolution and the time required to address these concerns.

Based upon the similarity of your duties and those prohibited by the statute we think that your presence on the Food Service Committee creates a direct conflict. This conflict would abate if you resigned your position on the Food Service Committee. A simple recusal by you from any voting or vendor selection process would not include those remaining activities, which also present a conflict. Accordingly, a resignation by you from the Committee would be required to eliminate the conflict.

Both the Arkansas Code and the Governor's Executive Order #98-04 apply to contracts paid by state appropriated funds. In the event that monies used to pay for these food services are other than state appropriated funds, the prohibition does not apply.

This advisory opinion is issued in accordance with ACA §19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and EO 98-04.

Sincerely,

Richard A. Weiss
Director

cc: Joe Giddis
Kay Turner, UAPB
Tom Gay, Office of Atty. Gen.